

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANTHONY CORNELIUS ROWE,  
Petitioner,  
v.  
BRUNO STOLC,  
Respondent.

Case No. C09-5770RJB/JRC

## REPORT AND RECOMMENDATION

**NOTED FOR:  
February 12, 2010**

This habeas corpus action, filed pursuant to 28 U. S.C. §2254, has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636 (b)(1)(B) and Local Magistrate Judge's Rules MJR 3 and MJR 4. Petitioner seeks relief from Pierce County convictions for one count of Rape of a Child in the First Degree, one count of Rape of a Child in the Second Degree, and one count of Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct. He was sentenced to 171 months to life in 2005 (Dkt. # 2, proposed petition page 1).

Petitioner has filed an application to proceed in forma pauperis and indicates he has forty dollars and fifty-one cents (\$40.51) in his spendable account (Dkt. # 1). In addition, petitioner

indicates he makes two dollars (\$2.00) a day working at the facility. The cost of filing a habeas petition is five dollars (\$5.00).

The district court may permit indigent litigants to proceed in forma pauperis upon completion of a proper affidavit of indigence. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963). Petitioner has the funds needed for full payment, his application should be denied. Petitioner should be given thirty days to pay the full filing fee.

## CONCLUSION

Petitioner has the funds to pay the filing fee in this case and his application should be DENIED. Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on February 12, 2010, as noted in the caption.

DATED this 20th day of January, 2010.

  
J. Richard Creature  
United States Magistrate Judge